

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

|                         |   |              |
|-------------------------|---|--------------|
| AMERIGAS PROPANE, L.P., | : |              |
|                         | : |              |
| Plaintiff,              | : | CIVIL ACTION |
|                         | : |              |
| v.                      | : |              |
|                         | : |              |
| OPINION CORP. d/b/a     | : | NO. 12-713   |
| PISSEDCONSUMER.COM,     | : |              |
|                         | : |              |
| Defendant.              | : |              |

**ORDER**

**AND NOW**, this 19th day of *June*, 2012, upon consideration of Defendant Opinion Corp. d/b/a PissedConsumer.com's Motion to Dismiss (Docket No. 5), Plaintiff Amerigas Propane, L.P.'s Response in Opposition (Docket No. 7), and Defendant's Reply Brief (Docket No. 8), it is hereby **ORDERED** as follows:

1. Defendant's Motion to Dismiss Counts I, II, III, IV, and VII is **GRANTED IN PART** and **DENIED IN PART** as follows:
  - a. Defendant's Motion to Dismiss on the grounds that Plaintiff fails to allege the use of "AMERIGAS" as a trademark is **DENIED**;
  - b. Defendant's Motion to Dismiss on the grounds that its nominative use of Plaintiff's trademark is fair is **DENIED**;
  - c. Defendant's Motion to Dismiss on the grounds that the Complaint fails to allege likelihood of confusion is **DENIED**;
  - d. Defendant's Motion to Dismiss on the grounds that the doctrine of initial interest confusion does not apply is **DENIED**;
  - e. Defendant's Motion to Dismiss any claim premised on a theory of contributory infringement is **GRANTED**, and Plaintiff is precluded from seeking to hold Defendant contributorily liable for the claims made in Counts I, II, III, IV, and VII;
2. Defendant's Motion to Dismiss Counts IV, V, and VI pursuant to 47 U.S.C. § 230 is **DENIED**.

BY THE COURT:

*S/ Ronald L. Buckwalter*  
RONALD L. BUCKWALTER, S.J.